**The areas marked in yellow are to be completed by the expert employee responsible in procurement, the requester, or the contractor. The yellow markings and all editing notes should be removed when finalising the document.**

**Supplementary agreement**

**to contract number 03\_/\_\_\_\_\_\_\_\_\_\_\_\_**

between

**DFS Deutsche Flugsicherung GmbH**

represented by its Executive Board

**Am DFS-Campus 10**

**63225 Langen
Germany**

– hereinafter referred to as the "**Controller or Client**" –

and

**XXX**

represented by XXX

**XXX**

**XXX**

– hereinafter referred to as the "**Processor or Contractor**" –

**regarding order processing**

**Section 1**

**Subject matter and term**

1. The subject matter of the underlying contract is [specify service/refer to Annex etc.]. On the basis of this contract, the Processor shall process personal data on behalf of the Client within the meaning of [Article 4](https://dsgvo-gesetz.de/art-4-dsgvo/) no. 2 and [Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) of the General Data Protection Regulation (GDPR).
2. The contractually agreed service shall be performed exclusively in a member state of the European Union or in a member state of the Agreement on the European Economic Area. Any relocation of the service or parts of the work to a third country shall require the prior consent of the Client and is permitted only if the specific requirements of [Article 44](https://dsgvo-gesetz.de/kapitel-5/) et seq. GDPR are met (e.g. adequacy decision by the Commission, standard data protection clauses, approved code of conduct).
3. The term of this agreement shall be based on the term of the aforementioned contract. The Client may terminate the contract without notice at any time in the event of a serious breach on the part of the Contractor of data protection rules or the provisions of this supplementary agreement or if the Contractor denies the Client its control rights in violation of the contract. In particular, non-compliance with the obligations agreed herein and derived from [Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) GDPR shall constitute a serious breach.

**Section 2**

**Nature and purpose of the processing, type of personal data, and categories of data subjects**

1. Nature of the processing (as defined under [Article 4](https://dsgvo-gesetz.de/art-4-dsgvo/) no. 2 GDPR)

…………………………………………………………………………………………………

1. Type of personal data (as defined under [Article 4](https://dsgvo-gesetz.de/art-4-dsgvo/) nos. 1, 13, 14 and 15 GDPR)

…………………………………………………………………………………………………

1. Categories of data subjects (as defined under [Article 4](https://dsgvo-gesetz.de/art-4-dsgvo/) no. 1 GDPR)

…………………………………………………………………………………………………

**Section 3**

**Rights and obligations of the Client**

1. The Client shall be solely responsible for assessing the legitimacy of the processing pursuant to [Article 6](https://dsgvo-gesetz.de/art-6-dsgvo/) (1) GDPR and for safeguarding the rights of data subjects pursuant to [Articles 12 to 22](https://dsgvo-gesetz.de/kapitel-3/) GDPR. The Contractor is nevertheless required to forward all enquiries in this regard that are identifiably addressed exclusively to the Client to the latter without delay.
2. Any changes to the subject matter of the processing or changes to procedures shall be agreed jointly by the Client and the Contractor and laid down in writing or in a documented electronic format. As a rule, the Client shall place all orders and partial orders in writing or in a documented electronic format. Any oral agreements shall be confirmed in writing or in a documented electronic format without delay.
3. The Client is entitled as stipulated under Section 5 to satisfy itself prior to the commencement of processing and at reasonable regular intervals thereafter of compliance with the technical and organisational measures taken by the Contractor and the obligations laid down in this contract.
4. The Client shall inform the Contractor without delay if it identifies errors or irregularities when examining the results of the order. The Client is required to treat all knowledge of trade secrets and data security measures of the Contractor obtained during the course of the contractual relationship as confidential. This obligation shall continue to apply even after this contract has ended.

**Section 4**

**Contacts**

1. The contacts at the Client shall be:

(first name, surname, organisational unit, telephone number)

1. The contacts at the Contractor shall be:

(first name, surname, organisational unit, telephone number)

1. Communication channels to be used:

(exact postal address/e-mail/telephone number)

1. In the event that contacts change or are unavailable for an extended period, the other party shall be informed of their successors or representatives in writing or electronically without delay. The communication shall be retained for three full calendar years.

**Section 5**

**Obligations of the Contractor**

1. The Contractor shall process personal data exclusively within the framework of the agreements concluded and as commissioned by the Client, unless required to do so by Union or member state law to which the Processor is subject (e.g. investigations by prosecution or state security authorities); in such a case, the Processor shall inform the Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (3) sentence 2 (a) GDPR).
2. The Contractor shall not use the personal data transferred for processing for any other purposes and in particular not for its own purposes. Copies or duplicates of the personal data shall not be created without the knowledge of the Client. The Contractor shall ensure that all measures agreed in relation to the processing of personal data in compliance with the order are managed in conformity with the contract. It shall ensure that the data processed on behalf of the Client is strictly separated from other data sets. Data media originating from the Client or used on behalf of the Client shall be specifically labelled. Incoming and outgoing movements as well as ongoing use shall be documented.
3. The Contractor shall make the Client aware immediately if in its opinion an order placed by the Client breaches statutory provisions ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (3) sentence 3 GDPR). The Contractor is entitled to suspend implementation until it is confirmed or changed following a review by the Controller at the Client’s company.
4. Upon request by the Client, the Contractor shall rectify, erase or restrict the processing of personal data arising out of the contractual relationship, unless this is contrary to legitimate interests of the Contractor. The Contractor may issue information regarding personal data arising out of the contractual relationship to third parties or the data subject only with the prior consent of the Client.
5. The Contractor agrees that the Client is entitled, to the extent that is reasonable and required and after arranging an appointment in each case, to monitor compliance with data protection and data security rules and contractual agreements itself or to commission third parties to do so, in particular by obtaining information and inspecting the stored data and the data processing programs as well as via on-site reviews and inspections ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (3) sentence 2 (h) GDPR). The Contractor affirms that it will cooperate in these inspections in a supportive manner where required.
6. The Contractor undertakes to preserve confidentiality when processing personal data of the Client in compliance with the order. This shall continue to apply even after the contract has ended. The Contractor affirms that it will familiarise the staff employed to perform the work with the data protection provisions that are relevant to them before they commence work and take suitable measures to obligate them to maintain confidentiality for the duration of their work and after the employment relationship has ended ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (3) sentence 2 (b) and [Article 29](https://dsgvo-gesetz.de/art-29-dsgvo/) GDPR).
7. The Contractor shall monitor compliance with data protection rules within its company**.**

The person appointed as data protection officer at the Contractor’s company is Mr/Ms

(first name, surname, organisational unit, telephone number). The Client must be informed of any change of data protection officer without delay.

or

A data protection officer has not been appointed at the Contractor’s company as an appointment is not required by law.

Where relevant:

The Contractor undertakes to inform the Client without delay of the exclusion of an approved code of conduct in accordance with [Article 41](https://dsgvo-gesetz.de/art-41-dsgvo/) (4) GDPR or the withdrawal of certification in accordance with [Article 42](https://dsgvo-gesetz.de/art-42-dsgvo/) (7) GDPR.

**Section 6**

**Notification obligations of the Contractor in the event of disruptions to processing and**

**personal data breaches**

The Contractor shall inform the Client without delay in the event of disruptions, infringements on the part of the Contractor or the persons it employs either of data protection provisions or the stipulations laid down in the order and suspicion of data protection breaches or irregularities in the processing of personal data. In particular, this shall also apply in respect of any reporting and notification obligations of the Client under [Article 33](https://dsgvo-gesetz.de/art-33-dsgvo/) and [Article 34](https://dsgvo-gesetz.de/art-34-dsgvo/) GDPR. The Contractor undertakes where necessary to provide appropriate support to the Client in respect of its obligations under [Article 33](https://dsgvo-gesetz.de/art-33-dsgvo/) and [Article 34](https://dsgvo-gesetz.de/art-34-dsgvo/) GDPR ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (3) sentence 2 (f) GDPR). The Contractor may only issue notifications on behalf of the Client pursuant to [Article 33](https://dsgvo-gesetz.de/art-33-dsgvo/) or [Article 34](https://dsgvo-gesetz.de/art-34-dsgvo/) GDPR following prior instructions in accordance with Section 4 of this contract.

**Section 7**

**Subcontracting relationships with subcontractors (Article 28 (3) sentence 2 (d) GDPR)**

1. The Contractor is permitted to commission subcontractors to process data of the Client only with the approval of the Client, [Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (2) GDPR, which must be granted via one of the aforementioned communication channels (Section 4) with the exception of oral approval. Consent may only be granted if the Contractor communicates the name, address and intended activities of the subcontractor to the Client. The Contractor must also ensure that it selects the subcontractor carefully, specifically taking into account the suitability of its technical and organisational measures within the meaning of [Article 32](https://dsgvo-gesetz.de/art-32-dsgvo/) GDPR. The relevant inspection documents in this regard shall be provided to the Client upon request.
2. Subcontractors in third countries may be only commissioned if the specific requirements of [Article 44](https://dsgvo-gesetz.de/kapitel-5/) et seq. GDPR are met (e.g. adequacy decision by the Commission, standard data protection clauses, approved code of conduct).
3. The Contractor shall ensure by contract that the provisions agreed between the Client and the Contractor also apply in respect of subcontractors. The information in the contract with the subcontractor must be specifically laid down in such a way that the responsibilities of the Contractor and the subcontractor are clearly delineated from one another. If more than one subcontractor is engaged, this shall also apply to the division of responsibilities between these subcontractors. In particular, the Client must be entitled when necessary to conduct appropriate reviews and inspections of subcontractors, including on-site, or to commission third parties to perform them on its behalf.
4. The contract with the subcontractor must be made in writing; this may also be in an electronic format ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (4) and (9) GDPR). Data may be shared with the subcontractor only when the subcontractor has fulfilled the obligations under [Article 29](https://dsgvo-gesetz.de/art-29-dsgvo/) and [Article 32](https://dsgvo-gesetz.de/art-32-dsgvo/) (4) GDPR in relation to its employees.
5. The Contractor shall be liable vis-à-vis the Client for ensuring that the subcontractor fulfils the contractual data protection obligations that have been imposed on it by the Contractor in accordance with this section of the contract.
6. At present, the subcontractors designated in Annex ......... by name, address and order content are engaged on behalf of the Contractor to process personal data to the extent specified thereunder. The Client agrees to their being commissioned. The Processor shall always inform the Controller of any intended changes concerning the addition of new or replacement of current subcontractors, thereby giving the Client the opportunity to object to such changes ([Article 28](https://dsgvo-gesetz.de/art-28-dsgvo/) (2) sentence 2 GDPR).

**Section 8**

**Technical and organisational measures pursuant to Article 32 GDPR (Article 28 (3) sentence 2 (c) GDPR)**

1. A level of security appropriate to the risk to the rights and freedoms of the natural persons affected by the processing shall be ensured for the specific processing. To this end, the protection objectives under [Article 32](https://dsgvo-gesetz.de/art-32-dsgvo/) (1) GDPR, such as the confidentiality, integrity and availability of systems and services as well as their resilience in terms of the nature, scope, context and purpose of the processing must be taken into account so as to ensure that this risk is permanently mitigated through suitable technical and organisational safeguards.
2. The technical and organisational measures described in the Annex represent an appropriate and detailed level of protection of personal data that is consistent with the risk identified, taking into account the protection objectives according to the state of the art and specifically taking into account the IT systems and processing procedures used by the Contractor.
3. The Contractor shall, when required, but at least once per year, perform a review, assessment and evaluation of the effectiveness of the technical and organisational measures for ensuring the security of the processing ([Article 32](https://dsgvo-gesetz.de/art-32-dsgvo/) (1) (d) GDPR). The result shall be communicated to the Client, together with a full audit report. The Contractor and Client shall coordinate significant security-related decisions relating to the organisation of data processing and the mechanisms used. If the measures taken by the Contractor do not satisfy the requirements of the Client, it shall notify the Client without delay.
4. The measures taken by the Contractor may be adapted in line with technical and organisational advancements over the course of the contractual relationship but may not fall below the agreed standards. The Contractor must agree any material changes with the Client in a documented form (in writing, electronically). Any such agreements must be retained for the term of this contract.

**Section 9**

**Obligations of the Contractor after the contract has ended, Article 28 (3) sentence 2 (g) GDPR**

1. Following conclusion of the work under the contract, the Contractor shall hand over to the Client all data, documents and results of processing or use in connection with the contractual relationship that are in its possession and have been transferred to subcontractors.

*or:*

erase, destroy or have them destroyed in line with data protection requirements:

1. The erasure or destruction shall be confirmed to the Client, specifying the date, in writing or in a documented electronic format.

**Section 10**

**Miscellaneous**

1. Both parties shall retain agreements on the technical and organisational measures as well as control and inspection documents (including regarding subcontractors) for the duration of their validity and for three further full calendar years thereafter.
2. The Contractor shall inform the Client without delay if the property or the personal data of the Client to be processed is jeopardised by third-party measures at the Contractor’s company (for example, due to attachment or seizure) due to insolvency or composition proceedings or due to other events.
3. The defence of the right of retention within the meaning of [Section 273](http://www.gesetze-im-internet.de/bgb/__273.html) of the German Civil Code (BGB) is excluded in respect of the data processed on behalf of the Client and the associated data media.

|  |  |
| --- | --- |
| Langen, dated ..................................... | […], dated ................................ |
| DFS Deutsche Flugsicherung GmbH | [Company / name of contractor] |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Surname, first nameFunction\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Surname, first nameFunction | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_First name, surnameJob title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Surname, first nameFunction |

# Attachments:

* Any subcontractors
* Technical and organisational measures